

# **MICHIGAN**

## **Continuous Improvement Monitoring Process Improvement Plan Progress Report**

For the period of December 2002 through May 2003

**Michigan Department of Education  
Office of Special Education and Early Intervention Services**

Submitted to the  
U.S. Department of Education  
Office of Special Education Programs

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# Introduction

## Background

The Michigan Department of Education, Office of Special Education and Early Intervention Services (MDE, OSE/EIS) is committed to improving results for infants, toddlers, children and youth with disabilities and their families. The Continuous Improvement Monitoring Process (CIMP) has been central to the OSE/EIS planning. The CIMP has provided the context for deeper exploration of the system barriers that impede progress in the implementation of the Individuals with Disabilities Education Act (IDEA). The CIMP has also encouraged the discovery of the root causes of these barriers and the development of an improvement plan to resolve them.

In 1999-2000, the MDE engaged in a self-assessment as part of the CIMP. A group of over one hundred and thirty stakeholders representing all aspects of the Part C and Part B systems conducted this self-assessment. The CIMP Steering Committee, a subset of the large stakeholder group, further refined the findings from the self-assessment. A self-assessment report was completed by the OSE/EIS and submitted to the United States Department of Education, the Office of Special Education Programs (OSEP) for review.

The OSEP provided feedback regarding areas of concern the OSE/EIS was to address immediately. These concerns were:

### Part C:

- Establish an Early On System Review link to component GS1 within the General Supervision cluster, and set a cycle with a specified number of reviews per year.
- Review the concern about sufficient numbers of service coordinators and the ability of families to identify their service coordinators. Address the local review process and appropriateness of evaluations within the Natural Environments cluster.
- Work on barriers to information, referrals and services as noted in the Comprehensive Public Awareness and Child Find System cluster.
- Address the consistency and timeliness of Transition Plans and options for children not eligible for Part B at age three within the Early Childhood Transition cluster.

### Part B:

- Address the hearing officer selection process.
- Address the timeliness of hearings and complaint investigations.
- Address the limited ability to track patterns of concern.
- Review the limited use of mediation.
- Address the oversight of corrective action.

Work began immediately to address these areas of concern. The OSE/EIS submitted a preliminary Improvement Plan to the OSEP in December 2001 to begin resolution of the concerns. At the same time, the CIMP Steering Committee began a more in-depth analysis of many of these concerns. This analysis was completed by the spring of 2002, resulting in the CIMP Improvement Plan submitted to the OSEP July 2002. This plan was accepted by the OSEP in October 2002.

This document presents the second progress report on the CIMP Improvement Plan. It represents the progress made regarding the Part B areas of concern only. This report also serves as the quarterly report on complaint timelines; the next quarterly report will be submitted on October 1, 2003. The Part C Annual Performance Report serves as the progress report for the Part C areas of concern. The progress reporting period is December 1, 2002 through May 31, 2003.

### **Improvement Planning Context**

The context within which the CIMP Improvement Plan is implemented impacts the ability of the OSE/EIS to carry out the strategic directives established by the CIMP Steering Committee, in both positive and negative ways. A summary of the current implementation context follows.

### **Staff Shortages and Hiring Freeze**

An early retirement offer last spring resulted in the loss of eleven full time OSE/EIS employees, leaving the office with thirty-six employees. The OSE/EIS has been unable to fill any vacant positions since then due to a hiring freeze.

### **Economic Downturn**

The State of Michigan has experienced a substantial budget deficit that is being addressed, in part, by budget cuts within the state departments. While federal appropriations have increased, the decline in state revenues has led state-level policy makers to institute a series of cost-savings measures that impact the manner in which all service areas, including the OSE/EIS, are able to conduct business.

### **Litigation**

The lawsuit filed by the Michigan Protection and Advocacy Services against the Michigan Department of Education (Michigan Protection and Advocacy Services, Inc. v. Watkins, et al) was concluded with a settlement agreement in May 2003.

### **No Child Left Behind**

The MDE's implementation plan for No Child Left Behind (NCLB) has been approved. Several staff members of the OSE/EIS are involved in key internal NCLB work groups for assessment and highly qualified personnel. The OSE/EIS is also working to integrate the leadership activities under development through the State Improvement Grant (SIG) with those initiating through NCLB. As the IDEA reauthorization moves forward, the OSE/EIS anticipates further emphasis on alignment of activities.

### **High Priority Schools**

The Michigan State Board of Education has set its strategic goal as “attain substantial and meaningful improvement in academic achievement for all students/children with primary emphasis on chronically underperforming schools and students.” All activities within the MDE are focused on this effort.

### **Early Childhood**

Michigan’s newly elected governor, Jennifer Granholm, has stated that early childhood is one of her highest priorities and has initiated an interagency project, “Great Start”, as a way of comprehensively supporting families with young children. Simultaneously, the MDE has initiated a reorganization that includes the development of an Office of Early Childhood Education and Family Services. It is anticipated that the *Early On* program (Part C of the IDEA) will move to the newly created office.

### **Assessment System**

While the development and implementation of an alternate assessment for students with disabilities (MI-Access) is currently housed in the OSE/EIS, the Michigan Educational Assessment Program (MEAP) has been housed in the Michigan Department of Treasury for several years as a result of an Executive Order of the previous Governor. It is anticipated that Governor Granholm will issue a new Executive Order moving the MEAP back to the MDE. Re-organization plans currently indicate that MI-Access would then move to the Office of Assessment within the MDE.

## **Alternative Dispute Resolution**

**MICHIGAN OSE/EIS CIMP PROGRESS REPORT**  
Reporting Period 12/01/02 – 5/31/03

**Cluster Area: General Supervision**

**OSEP Area of Concern:** Limited Use of Mediation

**Strategic Directive:** Improve the alternative dispute resolution process.

**Current Level of Performance:**

The CIMP Steering Committee understands that the dispute resolution system includes both informal and formal mediation. Stakeholders agree that the new system must be based on a culture of deliberate fellowship. Collaboration among educators, students and parents will prevent escalation of many disputes to an adversarial stage.

The MDE, OSE/EIS funds an IDEA mandated activity, The Dispute Resolution Project (Michigan Supreme Court, State Court Administrative Office), to ensure statewide access to mediation at no cost to either party. This project is referred to as "IDEA mediation" throughout the Improvement Plan. The current focus of the Improvement Plan is on improvements to the IDEA mediation system.

<b>Dispute Resolution Project Data</b>	<b>10/01/01 - 09/30/02</b>	<b>10/01/02 - 12/31/02</b>	<b>01/01/03 - 03/31/03</b>
Number of cases opened	66	18	31
Number of cases disposed	63	16	21
Conciliated with agreement	3	2	2
Conciliated without agreement	0	0	0
Mediated with agreement	23	4	8
Mediated without agreement	5	1	1
Facilitated IEP with agreement	3	2	2
Facilitated IEP without agreement	0	0	0
Average number of days from intake to disposition	31.9	25.2	33.5
Average number of participants	7	7	8
Number of hearings dismissed	8	0	2
Number of hearings held where mediation reduced issues	1	0	0

## Alternative Dispute Resolution

### Summary of Progress to Date:

Mediation procedures have been finalized and the OSE/EIS has developed the “stay put” provision to be added to the mediation procedures through rule revision. The “stay put” provision will be part of the next rules revision package promulgated Fall 2003. Mediation data so far this year are on track to demonstrate an increase in the use of mediation over last year’s total of 66 cases. Progress on the CIMP Improvement Plan activities to address the Steering Committee’s strategic directives in this area did not move as quickly as planned. The Dispute Resolution Project did not prioritize the additional work responsibilities from the plan and the OSE/EIS did not communicate expectations clearly. The development of the evaluation model has taken longer than expected, but will be ready in time for the new grant year. Substantial revision to the OSE/EIS grant management system has been undertaken to improve coordination and communication between the OSE/EIS and all of its grantees. It is expected that the Dispute Resolution Project will integrate all CIMP related activities into their work plan for the coming year and that the OSE/EIS will monitor their progress closely.

### Improvement Plan Assumptions:

- Mediation includes both formal and informal dispute resolution.
- Improving awareness of IDEA mediation will result in increased use of the system.
- Promoting deliberate fellowship among educators, students and parents will increase the use of mediation over complaints and hearings.
- Ensuring the cultural competency of special education mediators will increase the use of mediation.
- Evaluation data will result in information that can be used to improve the IDEA mediation system. Improving the system will result in increased use.
- Extending “stay put” provisions to include mediation cases will result in increased use of the system.
- Providing ongoing support and education to special education mediators will result in improved mediator competency. Improved competency will lead to increased use of mediation.

### Evidence of Change (Long Term):

*How will this make a difference for children with disabilities and their families?*

Increased use of mediation will result in a less adversarial system as measured by improved consumer satisfaction ratings and an increase in the number of cancelled hearings.

## Alternative Dispute Resolution

Benchmark	Progress to Date	Explanation/Analysis	Proposed Adjustments
Revise special education rules to include "stay-put" by 12/02. Public Comment is held. Input results in revisions by 2/03.	The OSE/EIS has included the "stay put" provision in the Request for Rule Making (RFR) with the Office of Regulatory Reform as part of a rules revision package. Revisions to Michigan's Revised Administrative Rules for Special Education will be mailed out in August 2003 for public hearings from September 18 through October 2003. Public comment will be accepted through October 3, 2003.	R 340.1724d – Mediation is proposed to include "stay put" provision.	The "stay-put" provision will be in place by July 2004
Develop evaluation design in concert with dispute resolution project grantee by 12/02. Develop and fund evaluation implementation plan by 2/03.	The State Improvement Grant (SIG) has been meeting with the Mediation Project Director and supervisor who, in turn, have been meeting with evaluators. Evaluation proposals are being drafted. When proposals are reviewed and one is accepted, the implementation of the evaluation plan will follow.	The SIG will fund the evaluation once a design has been approved.	The evaluation will be ready for use in the new fiscal year (October 2003).

## Alternative Dispute Resolution

Benchmark	Progress to Date	Explanation/Analysis	Proposed Adjustments
Finalize mediation procedures by 12/02.	Completed.	The OSE/EIS conducted public hearings and received public comment from August 1 - October 31, 2002 re: the proposed Procedures for Dispute Resolution. The OSE/EIS staff made revisions to the procedures based on public comment and presented them to the Special Education Advisory Committee (SEAC) in 2/03. After SEAC's recommendation for approval, the Superintendent of Public Instruction approved the procedures which are on the MDE website ( <a href="http://www.mi.gov/mde">www.mi.gov/mde</a> ). Mailings were sent to over 2,000 stakeholders.	
Data collection of combined and single audience training sessions initiated by 12/02.	29 trainings held in first two quarters of Dispute Resolution Project. Unable to tell if training was to combined or single audiences.	Collection of this data will be explicitly described in the new work plan for the Dispute Resolution Project.	Data will be reported quarterly in the new fiscal year.
SIG and mediation grantee consult on mediator sustained learning model. Fund recommended model and evaluation by 12/02.	Meetings held. Dispute Resolution Project states the sustained learning model in place.	Further guided exploration of the sustained learning model will occur in the next fiscal year.	To be reflected in the Dispute Resolution Project's work plan for new fiscal year.



## Complaint Process

MICHIGAN OSE/EIS PROGRESS REPORT  
Reporting Period 12/01/02 – 5/31/03

### Cluster Area: General Supervision

**OSEP Area of Concern:** Limited ability to track complaints.

**Strategic Directive:** Improve the effectiveness of the complaint process.

### Current Level of Performance:

The timeliness of complaint investigations has been a concern of the CIMP Steering Committee, the MDE, OSE/EIS staff and the OSEP. Timely investigations have been impacted by the complexity of the issues within a complaint, difficulty obtaining needed information, inadequate documentation of timelines, and a lack of personnel. The CIMP Steering Committee recommended that the OSE/EIS revise internal office complaint procedures and reporting to improve public understanding of issues and improve understanding of patterns of concern through consistent reporting. It was proposed that oversight and technical assistance increase and that the two-tier complaint system be studied.

Complaint Data	01/01/01 to 11/16/01	01/01/02 to 06/30/02	07/01/02 to 11/30/02	12/01/02 to 02/28/03	03/01/03 to 05/31/03
Number of cases closed	274	122	97	52	64
Closed within timeline	165 (60.2%)	85 (69.7%)	72 (74.2%)	35 (67.3%)	46 (71.9%)
Closed beyond timeline	109 (39.8%)	37 (31.3%)	25 (25.8%)	17 (32.7%)	18 (28.1%)

Of the eighteen (18) cases closed beyond the timeline, the complaint case managers cited the following reasons (with multiple reasons in some cases):

- Number of cases when the ISD exceeded the timeline: 7
- Number of cases remanded to the ISD: 1
- Number of cases involving the OSE/EIS levels above director: 0
- Number of cases involving FAPE priority of other cases: 12
- Number of cases involving "other": 1

## Complaint Process

Exceptional circumstances were cited by the complaint case managers for seventeen (17) of the sixty-four (64) cases closed within the timeline:

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|---|---|
| • Number of cases with hearing officer involvement:                     | 8 |
| • Number of cases when the ISD received timeline extension, with cause: | 2 |
| • Number of cases with additional time to file appeal:                  | 1 |
| • Number of cases with complicating factors:                            | 0 |
| • Number of cases with numerous allegations:                            | 0 |
| • Number of cases with "other":   | 6 |

### Summary of Progress to Date:

The OSE/EIS has revised its internal complaint procedures. Staff has yet to be fully trained in their implementation, resulting in data that is still somewhat inconsistent though substantially improved. Data continue to be hand-tallied because the contractor for Michigan Compliance Information System (MI-CIS) was not able to complete work on the dispute resolution data module this year. It is expected that the MI-CIS module will be developed fully in the next year. Initial training has taken place with ISD level complaint investigators and reporting of complaint timeliness by ISD will begin in the Fall 2003. Graduate interns working with the OSE/EIS this summer will assist the OSE/EIS staff in completing the study of the efficacy of a one tier complaint system. Public awareness articles have been produced and distributed to special education stakeholders through the Center for Educational Networking, an OSE/EIS public awareness grantee. Those publications will continue on a regular basis. The OSE/EIS continues to have a significant issue regarding the hiring of additional complaint investigators. Filling these positions is a high priority within the MDE, but a statewide hiring freeze has prevented action. The hiring of two additional complaint investigators is seen as critical to assisting the MDE in meeting its timeline obligations.

### Improvement Plan Assumptions:

- Revised procedures for managing complaints will improve the timeliness of investigations.
- Consistent reporting of data to stakeholders will result in their improved understanding of the timeliness issues related to complaint investigations.
- Increased visibility of and attention to timeliness as an issue will improve the timeliness of investigations.
- Evaluation of the efficacy of a one tier v. two-tier complaint system may yield further information critical to improvement of the complaint system.

### Evidence of Change (Long Term):

*How will this make a difference for children with disabilities and their families?*

Timely resolution of complaints will result in timely implementation of early intervention services in the natural environment and free and appropriate public education in the least restrictive environment for infants, toddlers children and youth with disabilities as measured by the timeline data.

## Complaint Process

Benchmark	Progress to Date	Explanation/Analysis	Proposed Adjustments
Revise internal complaint procedures by: same complaint manager to the same complainant; violation tracking system, and increase range of correction action by 12/02.	Completed.	Copy of internal operating procedures (IOP) attached. See Attachment A.	
Integrate complaint data into MI-CIS by 12/02.	The Dispute Resolution module is not developed.	Some preliminary design work has been done, but the development process is slower than expected.	The MI-CIS development contract for the 2003-2004 school year includes the Due Process module. The data will be ready by June 2004.
Study efficacy of one tier v. two-tier complaint system by 2/03.	No progress.	Limited number of staff available to initiate this work.	A study of the efficacy of a one tier v. two-tier complaint system will be undertaken during the summer of 2003 with the help of graduate interns.
Finalize and codify ("complexity") "complicating" criteria by 10/02. Initiate data collection by 10/02. Integrate data into MI-CIS by 12/02.	Criteria completed. Data collection has been initiated, but is currently being hand-tallied. MI-CIS is not yet ready to integrate complaint data into the system.	See IOP Attachment A, Section F. MI-CIS preliminary design work has been done, but the development process is slower than expected.	The MI-CIS development contract for the 2003-2004 school year includes the Due Process module. The data will be ready by June 2004.
Establish criteria for sufficient/insufficient reasons for timeline extensions by 2/03. Initiate data collection by 2/03.	Criteria established. Data reported for insufficient reasons and exceptional circumstances on page 10.	Data will continue to be reported.	

## Complaint Process

Benchmark	Progress to Date	Explanation/Analysis	Proposed Adjustments
Hire additional complaint investigators and secretary by 2/03.	Positions for two additional complaint investigators were posted and OSE/EIS has collected applications. Due to budget constraints in Michigan, these positions cannot be filled at the present time. They are priority positions within the MDE.	The MDE is awaiting an approved "FTE Cap" decision from the Michigan Department of Management and Budget (DMB) which will allow hiring of critical positions.	The MDE OSE/EIS will fill these positions as soon as possible.
70% of complaint investigations will be completed within the timeline by 12/02.	In the quarter ending 05/31/03, the completion rate for complaint investigations, within the timeline, was 71.8%; the overall average for the year (07/01/02 to 06/01/03) is 71.0%.	Internal procedure revision has taken place; ISD level investigators have received training; additional complaint investigation staff is needed.	The MDE OSE/EIS recognizes the need to reach 100% compliance with the complaint timeline.
Take corrective action, where needed, based on analysis of timeline data by ISD.	Currently data is collected and corrective action, where needed, is initiated. Upon completion of the complaint training sessions, a standard data collection and reporting system will be in place.	Public reporting of timeline data by ISD will begin in Fall 2003.	

## Hearings Design

### MICHIGAN OSE/EIS CIMP PROGRESS REPORT CIMP Reporting Period 12/01/02 – 5/31/03

#### Cluster Area: General Supervision

**OSEP Areas of Concern:** Hearing Officer Selection Process, Timeliness  
**Strategic Directive:** Hearings Design

#### Current Level of Performance:

The OSEP raised concerns regarding the timeliness of hearing decisions and the perception of bias among Hearing Officers in Michigan. This concern prompted an in-depth exploration of the due process system by the CIMP Steering Committee. Through the CIMP, the Steering committee and the OSE/EIS staff reached a new level of understanding regarding the historical roots of Michigan's due process system and how it varies from the intent of dispute resolution in the IDEA.

The CIMP Steering Committee sees hearings as a small component of the due process system relative to mediation and less formal alternative dispute resolution. A one-tiered hearing system with salaried magistrates acting as independent fact-finders is recommended. Stakeholders further propose an independent advocate program with advocates trained in special education and the philosophy of the system to assist parents with the process. Reducing reliance on attorney involvement would reduce costs and promote a better balance of power. Also recommended was an ongoing user evaluation of the due process hearing system regarding process, participation and outcomes.

#### Timeline Data:

Timeliness of Hearings	01/01/99 to 12/31/99	01/01/01 to 12/31/01	01/01/02 to 12/31/02	01/01/03 to 06/30/03
Number completed	17	21	15	3
% closed within timeline	22%	58.5%	72.5%	100%
Range of days for overdue decisions	1 to 558 days	2 to 175 days	4 to 10 days	0

#### Hearing Cost Data 2002:

Total expenses for twelve (12) out of fifteen (15) local hearings reported or held were \$504,461.49; an average of \$42,038.46 per local hearing.

Nine (9) of those local hearings were appealed for a total cost of \$24,048.00; an average of \$2,672.00 per state hearing. Total expenses for the fifteen (15) hearings were \$528,509.49; an average of \$35,233.97 for both local and state hearings.

## **Hearings Design**

### **Improvement Plan Assumptions:**

- A salaried magistrate system will effectively manage the hearing process, eliminating concerns over bias and reducing timeline concerns.
- Independent advocates can improve the balance of power between parents and school districts by providing support to parents throughout the hearing process.
- Evaluation of the hearing process will result in continuous improvement of the due process system.
- Continuing the improvements initiated December 2002, including the tracking of individual hearing officers and reporting data to the public, will result in short-term improvements while substantial systems change is undertaken.

### **Evidence of Change (Long Term)**

Appropriate use of hearings as a last-resort due process mechanism and timely resolution of hearings leads to timely provision of early intervention services in the natural environment and free and appropriate public education in the least restrictive environment for infants, toddlers, children and youth with disabilities as measured by evaluation data.

### **Summary of Progress to Date:**

The hearing timeline data indicate a substantial improvement in both the number of cases closed within the timeline and the range of days for overdue decisions. The OSE/EIS continues its investigation of the one-tier salaried magistrate model. Initial research has been completed and information is being compiled. An evaluation of due process hearings by participants has been developed and initiated. Data from the evaluation will be published annually, beginning January 2004 and used to plan annual hearing officer training. Investigation into the independent advocate system has not been initiated due to a lack of staff.

## Hearings Design

<b>Benchmark</b>	<b>Progress to Date</b>	<b>Explanation/Analysis</b>	<b>Proposed Adjustments</b>
Conduct evaluation study of length and cost of hearings and user satisfaction to establish baseline by 12/02.	Cost data for 2002 included in this report. Satisfaction data to be collected as part of evaluation.	Data will be reported annually.	Report January 2004.
Initiate study of existing models of one-tier magistrate systems by 12/02.	Compilation of the narrative data has begun. Progress is slow due to time constraints of staff with legal expertise. The work of arraying the numerical data is one half completed.	The report will be completed by September 2003. A stakeholder group will review the data and make recommendations to the OSE/EIS.	
Integrate hearing data into MI-CIS by 12/02.	MI-CIS module is not yet ready to integrate hearing data into the system.	Some preliminary design work has been done, but the development process is slower than expected.	The MI-CIS development contract for the 2003-2004 school year includes the Due Process module. The data will be ready by June 2004.
Create evaluation design for current due process system by 12/02.	Completed. The OSE/EIS has developed an evaluation form with a series of questions that are completed by OSE/EIS staff, after obtaining a synopsis of each case and all other pertinent information.	See Attachment B for Due Process Questionnaire. Results will be reported annually, beginning January 2004.	
Study and report on models of independent advocacy by 12/02.	No progress.	This work will be undertaken following the completion of the studies of both the one-tier hearing system and the one-tier complaint system.	

**MICHIGAN OSE/EIS CIMP PROGRESS REPORT**  
CIMP Reporting Period 12/01/02 – 5/31/03

**Cluster Area: General Supervision**

**Strategic Directive: Marketing**

**Current Level of Performance:**

Raising public awareness of the due process system is an important aspect of the strategic directives developed by the CIMP Steering Committee. Accessible materials that describe the due process system are needed. It was recommended that the MDE, OSE/EIS strategically roll out the realignment of the due process system with the spirit of the federal requirements related to dispute resolution. Using multiple formats and settings, it is advised that information be disseminated and that mediation be promoted to a wider audience.

**Improvement Plan Assumption:**

Improving public awareness of the due process system will result in more informed use of the system and more fact-based discussions of its effectiveness.

**Evidence of Change (Long Term):**

Accessible, culturally competent information regarding the current due process system ensures that families, students and educators have opportunities to understand the due process system.

**Summary of Progress to Date:**

Work in this area has centered on raising public awareness through the dissemination of informational articles and technical assistance materials. To date, five articles have been developed and distributed to special education stakeholders (copies of articles in Attachment C).



## Marketing

<b>Benchmark</b>	<b>Progress to Date</b>	<b>Explanation/Analysis</b>	<b>Proposed Adjustments</b>
Establish advisory group through public awareness grantee(s) to review products to assure accessibility and cultural competency by 2/03.	Currently, the Center for Educational Networking and the Public Awareness, Information and Referral grantees of the OSE/EIS provide this service in a limited fashion.	Grantees guidelines and expectations for the coming fiscal year will include this expectation for both public awareness grantees. The OSE/EIS grant manager will monitor this activity.	Advisory groups will be in place at the start of each grantee's fiscal year.
Disseminate info from current due process hearing system costs study to special education stakeholders by 2/03.	The cost study of due process hearings is available to the public upon request but has not been broadly disseminated.	The 2002 Hearing cost study data will be posted on the MDE website ( <a href="http://www.mi.gov/mde">www.mi.gov/mde</a> ) and an announcement of its availability will be posted to OSE/EIS listservs.	Data to be published annually beginning January 2004.
Disseminate info from study of one-tier magistrate system to special education stakeholders by 2/03.	The study is not completed (See Hearings Design page 15)		Study to be completed by September 2003.